

**City Council Work Session
September 25, 2023**

The City Council of the City of Elizabeth City met in work session on Monday, September 25, 2023 in Council Chambers, located on the 2nd floor of the Municipal Administration Building, 306 E. Colonial Avenue, Elizabeth City, NC.

MEMBERS PRESENT: Mayor Kirk Rivers
Councilman Johnson Biggs
Councilman Jarvis Gibbs
Councilwoman Rose Whitehurst
Mayor Pro Tem Kem Spence
Councilwoman Katherine Felton
Councilwoman Barbara Baxter
Councilman Johnnie Walton

MEMBERS ABSENT: Councilman Joseph Peel

OTHERS PRESENT: City Manager Montre' Freeman
City Attorney Bill Morgan
Finance Director Alicia Steward
Interim Chief of Police J. Phillip Webster
Electric Superintendent Donnell White
Human Resources Director Montique McClary
Public Utilities Director Dwan Bell
Parks and Recreation Director Sean Clark
Grants Administrator Jon Hawley
Fire Chief Chris Carver
ECDI Director Debbie Malenfant
IT Director Matthew Simpson
IT Systems Analyst Pedro Holley II
City Clerk April Onley

Mayor Rivers called the Work Session to order at 5:33 p.m. The invocation was delivered by Councilman Gibbs, after which Councilman Biggs led the Pledge of Allegiance.

1. Agenda Adjustments and Approval:

Mayor Rivers asked the Council's pleasure on the prepared agenda.

Motion to approve the agenda as presented was made by Mayor Pro Tem Kem Spence, seconded by Councilwoman Katherine Felton. Those voting in favor of the motion were: Biggs, Gibbs, Whitehurst, Spence, Felton, Baxter and Walton. Against: None. Motion carried.

2. Committee Reports / Updates:

a. Public Utilities Committee – (Walton, Biggs, Spence)

i. Presentation – Dawson-Hunter Stormwater Improvement Study;

Grants Administrator Jon Hawley advised that he was here to present the Dawson-Hunter Stormwater Improvement Study. The Dawson Street area is very flood prone, as was evident this past week. The flooding in the area has become more than just a nuisance; it's now a hazard to the residents who live there and fixing the issue has become a priority of the Public Utilities Department. Two grants were secured last year to help with the study. Mr. Hawley introduced Maureen Harris with Aecom.

Ms. Harris explained that the Dawson-Hunter area was a long established area and had been there for many years. Aecom is addressing the watershed as a whole and not just where the most serious flooding areas area. The watershed is actually a large area, approximately 120 acres and extends almost to the historic downtown waterfront and then

to part of the ECSU campus. It mostly consists of single-family residential homes. Charles Creek is on the west side of the area and Pasquotank River is on the north side, which also causes tidal flooding. The study is called Dawson-Hunter because that's where the most serious flooding is located. The water level is generally high in that area, so it does not take much for the water to go up and over the road. The Dawson Street sanitary sewer pump station is in the area and is also very prone to flooding. With the recurring flooding, a number of properties have been condemned in the area. There are homes that were inhabited 10 years ago that people are no longer able to live in due to the flooding issues. Many residents have expressed their concerns because there is serious flood damage and mold and they are beginning to feel hopeless.

Ms. Harris stated that in recent years, the canal has been widening between Park and Dawson. They have tried to stabilize the canal, but so far it has not been working. Erosion in the area widens the canal near the pump station every time there's a storm event and the residents that live near that area are at risk. The study objectives are to understand the stormwater infrastructure and diagnose what the City had to begin with. The modeling analysis ran into several issues about the pipe systems. Public input was also an important part of this and they gathered much of that via a public meeting and a survey. They evaluated and prioritized 10 projects to reduce flooding. The study is conceptual level, but they did want to attach costs to it to advise what it would really take to reduce flooding. The study's key modeling takeaways identified that the worst flooding areas are on Park, Dawson and Bartlett Avenue.

The study proved difficult due to the double factors of watershed flooding and tidal flooding, so we will need a robust solution. There will need to be infrastructure improvements, canal improvements, dredging, a new pump station, strategic wetland locations that may be greener solutions and the last resort may be property buyouts. The project was primarily focused on reducing the depth and duration of flooding, including flood reduction, water quality benefits, easements, public acceptance and construction costs. The result of the project prioritizations had flood reduction with the highest weight. The top ranking project being recommend by Aecom is Alternative 2, which is the Park-Dawson Canal Line, which checks more of the boxes than any other project as far as reducing flooding and stabilizing the canal and incorporating dredging.

Mr. Hawley said he wanted to make the Council aware that this is not a study that just "sits on the shelf." They are already trying to put some of the study into action. Several factors have aligned at the same time, which allowed them to submit for additional funding. A separate Golden LEAF grant for resiliency enhancements for pump stations tied to disaster recovery has been proceeding well and the project came in substantially under the original budget. One of the pump stations improved through that grant was the Dawson Street station. The remaining funding has not been tapped for anything yet. In mid-August, they received notification that Golden LEAF was still accepting applications for flood mitigation until September 1st. The data for the Dawson-Hunter came in just in time for us to ask Golden LEAF if they'd allow us to put in two applications to repurpose the remaining funding we had and also request additional. Both applications are structured so there will be no local match. He explained that they will not fully fund the Alternative, but it will cover a large portion of it. He thanked the support in Public Utilities and Aecom for helping him drill down enough that he could make those grant requests in time. Golden LEAF is doing a site visit tomorrow, which doesn't mean "yes" but it means it is being considered. They are asking for a motion to finalize the Dawson study.

Councilman Walton asked if dredging the location would free up some of the flow? Mr. Hawley said the erosion over time in the canal is starting to clog up the outfall. With the request they've put into Golden LEAF, they would like to stabilize the banks as a first step to minimize the gunk clogging the outfall and then later come in and dredge. Dredging first would allow some benefit, but without addressing the erosion, it would not be successful overall. Councilman Walton asked what the cost for the project was for Dawson? Mr. Hawley said it's estimated at \$1.1 million. The project is well-suited for being done in phases. The two requests we have right now total \$420,000, including the leftover \$170,000 and the other flood mitigation request. Councilman Walton asked what he thought of our chances? Mr. Hawley stated that we do have the site visit tomorrow, so he was hopeful. There is an iterative process and Golden LEAF does try to work with you to get you to "yes." If there's additional documentation we can provide to paint a more compelling picture, they will let us know. We are tracking to hear one way or the other

around December. Councilman Walton asked if there are many other projects given to Golden LEAF this year? Mr. Hawley said he didn't know, but the flood mitigation had been open for some time until they'd decided to pause it for whatever reason. He was hoping that the Park-Dawson canal project will show that not only are we trying to follow through on the study, but also making sure that the funding for the pump station improvements don't fall to the wayside. We would hate for that to be undone because the erosion is not addressed.

Councilman Biggs asked how much time do we have left given the current rate of erosion before we're in a dire situation? How much longer before the bank is completely compromised? Ms. Harris said their fear is that it would just take a single major storm event like a hurricane and the bank would be brought down. Councilman Biggs asked if the request we have now would line the bank past the pump station? Mr. Hawley said yes, it would do that. We would start with the pump station and then work our way south. Once we have a critical mass of bank restoration done, then we'd look at the dredging. We would start with the pump station to protect the structure. Councilman Biggs noted he did not remember the last time he'd traveled by that area and did not see standing water. He didn't think it would matter when Golden LEAF came, there would be standing water regardless. He appreciated everything they were doing to try to help that area get relief. Mr. Hawley agreed that the tropical storm was at least helpful for getting them some very dramatic photos for the application.

Councilwoman Whitehurst thanked Mr. Hawley for his work. She said this was one of the citizens' top priorities. It looked like all the projects would be about \$20 million, although most are phased out.

Mayor Pro Tem Spence said to him it's a no-brainer., He wanted to forward the item to the full Council to give approval.

Motion was made by Mayor Pro Tem Kem Spence to move the item to the full Council. The motion was seconded by Councilman Johnson Biggs.

Councilman Biggs asked if Mayor Pro Tem Spence would be okay with having the item go forward to the full Council on this evening's Regular Session for a vote? Mayor Pro Tem Spence said that would be fine with him. Councilman Walton agreed they should go ahead and get the item moving.

Those voting in favor of the motion were: Spence, Biggs and Walton. Against: None. Motion carried unanimously by committee vote. Item moved to 9/25/23 Regular Session.

Mr. Hawley requested that if the Council hears from residents as they are trying to make their case to Golden LEAF, please encourage them to email any photos they have and he will make sure that they are included in the file.

b. Community Development Committee (*Whitehurst, Felton, Walton*)

i. Presentation – Opioid Settlement Funds;

Colleen Brown-McKinley greeted the Council and said she was present to discuss the second phase of the opioid settlement funds. The funds have moved through the states and are now passing down to the counties to address the opioid crisis. Unfortunately, in spite of all this money coming down to fight this, opioid misuse is still one of the leading causes of death. In North Carolina alone, there were about 28,000 deaths in 2020. Because of NARCAN, many other overdoses did not result in death. Recently with the emergence of synthetic opioids such as fentanyl, the majority of overdoses are completely accidental. There are those people who are struggling with addiction and overdose, but there are also people who just got a painkiller that happened to be laced with a synthetic opioid and overdose through no fault of their own. Opioid abuse started primarily amongst white, middle class people and Perdue Pharma pushed it nationwide, so that it has now broken boundaries and there are instances across all groups, especially in Black, Native American and Hispanic populations. On the positive side, the FDA has recently approved NARCAN as an over-the-counter drug, so it can be purchased without a prescription at CVS, Walgreens or anywhere off the shelf.

Pasquotank County has been studying how this crisis affects us specifically. They have been meeting with an advisory committee, including the sheriff's office, the Elizabeth City Police Department and other stakeholders about what they believe is happening here and the best way to handle it. For our county, we believe that harm reduction is the way to go. Harm reduction is comprised of practical strategies that minimize the risk of overdose. For example, proliferating NARCAN was a harm reduction strategy. After a year of study, it was decided our best solution is harm reduction. There's yet to be a conversation around what our final decision will entail, but she will be back in autumn sometime when that decision is made to tell us what they'll roll out to help the citizens.

Mayor Pro Tem Spence asked if he heard correctly that people have bought legally prescribed medicine from the pharmacy that had fentanyl in it? Mrs. McKinley-Brown said that's correct, although it has not happened in our county to her knowledge, but it has happened elsewhere. Councilman Walton asked how many deaths were in Pasquotank? Mrs. McKinley-Brown stated that in 2020, there were 20 deaths from opioid overdose. Councilwoman Whitehurst asked what was the name of the committee this was all working through? Mrs. McKinley Brown said it was called the Opioid Settlement Committee. She explained that the opioid money comes down through the EMS. The Committee meets monthly and has done so for the last year about the problem and how it's changed. Councilman Walton asked about the ethnicities involved in opioid overdoses. Mrs. McKinley-Brown said the problem originally started in white middle and lower class and it happened by them being over-prescribed opioids and being told these medications were not addictive. Now, the rate of death from overdose is rising for African Americans, Native Americans and Hispanic Americans. The original communities are still in trouble, but the others are rising rapidly. Councilwoman Whitehurst thanked Mrs. McKinley-Brown and told her she appreciated the work she was doing.

ii. Consideration – ECDI Banners;

Director Malenfant explained that ECDI is a 501c3 organization and concerned with the revitalization of Elizabeth City's downtown. ECDI purchases the banners on the decorative poles on Main Street. Over the years, those banners have faded and some have become lost. Their organization has voted to purchase new banners for the 40 poles on Main Street as well as the poles on Elizabeth Street. There is also one pole on Water Street that will have a banner. Elizabeth Street has never had banners previously, but it was always the intention for those poles to have banners once the Elizabeth Street Project was completed, and the hardware was purchased in advance of that. ECDI would like to purchase 72 banners om total. They are recommending a similar design to the former banners, emblazoned with the Elizabeth City logo and "Welcome to Downtown." The material is study and high quality. In addition to purchasing the banners, ECDI will handle their installation, and they will coordinate with NCDOT regarding the installation on Elizabeth Street. Since the City actually owns the poles, they need to ask permission from the City Council to install the banners on the City-owned poles.

Councilman Walton asked how soon the banners would be put up? Ms. Malenfant said once they're ordered it takes about six weeks for production, so they should be installed by the end of the year. She noted that they are not selling ads or anything like that. Councilwoman Whitehurst praised ECDI for their work in revitalizing downtown Elizabeth City. She asked for a motion to move the item to the Regular Session's Consent Agenda.

Motion was made by Councilman Katherine Felton, seconded by Councilman Johnnie Walton. Those voting in favor of the motion were: Whitehurst, Felton and Walton. Against: None. Motion carried unanimously by committee vote. Item moved to 9/25/23 Regular Session's Consent Agenda.

c. Public Safety Committee (*Spence, Peel, Felton*)

i. Discussion – Golf Carts;

Chief Webster advised that in 2014, the Council considered implementation of an ordinance to govern golf carts. Following those discussions, there was no action taken, nor was there action taken in 2018 when the conversation came up again. A citizen approached the conversation last month and the Police Department was asked to research the item. He explained that there are golf carts and there are low speed vehicles,

and although some of them look somewhat similar, they are not the same thing. North Carolina General Statute regulates golf carts on streets, roads and highways and allows cities to regulate golf carts on roads where the speed limits are 35 mph or less and/or on city property. By ordinance, a city may require the registration of golf carts, charge a fee and specify hours and limits of operation. He noted that he'd included a model ordinance for the Council to take a look at and pointed out that under the regulations, it asks the owner of the golf cart to sign a hold harmless agreement with the city.

A low speed vehicle is similar to a golf cart, but has many safety mechanisms, including seat belts, brake lights, windshields, and importantly, a VIN. The operation of low speed vehicles is authorized where speed limits are 35 mph or less. The low speed vehicles can cross a road or intersection that's more than 35 mph. Low speed vehicles must be registered and insured in much the same way a car would be with the DMV. Chief Webster noted there are a few low speed vehicles that go around the City right now. Low speed vehicles were envisioned as an easy way to get around gated communities. They do not have to have airbags or other safety features beyond seatbelts. If you apply the proper safety equipment to a golf cart, you can be issued a VIN and it will then be classified as a low speed vehicle.

Chief Webster stated that he came from South Carolina where you could go to the DMV and get a sticker for your golf cart and more or less drive it wherever you wanted. He warned that people can be seriously injured or killed in golf cart collisions. There is no safety equipment in a golf cart. In North Carolina, just since 2018 there have been 141 golf cart crashes. He said he was surprised at the low numbers, but it's because they are not permitted in NC to run up and down the road like they are in SC. Golf carts are prone to roll over and they are not enclosed. They can side spin and they generally need to be used only in areas with low risk, such as golf courses and residential or gated communities where they are the main form of transportation. In his opinion, people tend to forget they are in a motorized vehicle when in a golf cart and he's seen a lot of people holding their children in their arms while driving, which is extremely unsafe. He did not find any ordinances that just allowed golf carts to only operate in particular areas, although he did see some that restricted specific roadways. He noted a lot of the issue with golf carts had to do with operator behavior and lack of traffic law adherence because they forget they are operating a motor vehicle.

He stated that after reviewing the information, staff's recommendation is that golf carts are not intended for road usage, but the City could mandate their operation by ordinance and require annual fees, inspections, insurance and so on. He advised that the adoption of such an ordinance would put an additional burden on the Police Department due to the inspection process and just the mere regulations of checking on stickers and performing stops to verify documentation and safety protocols. The Police Department would not like to enact an ordinance for neighborhood or city-wide usage.

Councilman Biggs said he was in favor of having golf carts because he did not see the difference between those and a scooter and scooters were allowed on our streets. He agreed that if such an ordinance passed, we would need to have enhanced safety measures. The statistics, while extreme are national numbers and not everyone is allowed to do the same things that everyone else is allowed to do. He asked if we had taken a look at someone's ordinance like maybe Edenton or Ocracoke because they didn't seem to have too much of a problem? Did he have any feedback from areas like that? Chief Webster said that he did look at those areas. He sent out emails to about a dozen chiefs and some reported they'd seen increased collisions, though some had not. It was pretty scattered. Councilman Biggs said there are a lot of people here who want golf carts. There are places that it's the only mode of transportation and in a lot of downtowns, you're seeing more and more golf carts. He encouraged the Council to look at it with a strict safety lens and consider adding a lot of the requirements that a low speed vehicle had. He stated that he had no problem restricting the roads they could be on too, but he didn't have a problem with them going into residential areas or downtown. He felt that was a viable way to have a win-win for those asking for them.

Councilwoman Felton said her initial feeling was that golf carts belong in gated communities, which is where they were originally designed to be. She felt that if we decided to allow them, we should require the same safety measures that we would require on a low speed vehicle. She asked Attorney Morgan if she had a golf cart, signed the hold

harmless and then had a bad accident with her child and tried to sue the City, how many loop holes does that agreement have? Attorney Morgan pointed out that courts often find a way to allow a minor to get relief in an accident like that, so it would be a tough sell to see if they would let a parent's signature cover for a minor.

Councilwoman Whitehurst worried that the City is boxed in by four very large, very busy streets. Chief Webster said that by ordinance, we could allow people to cross an intersection, which also applied to low speed vehicles, but they could not travel on the intersections or ride along them. Councilwoman Whitehurst asked if we knew the people who were asking for this, did they live in the City? Manager Freeman replied that the ones he knew of were in the Tooley's Harbor area. Councilwoman Whitehurst asked if we know the risks or do we know if we are taking on risk? Are we putting people at risk and having liability? I think it's a good idea, but we have to consider the design of our city and how it's laid out, but are we creating a risk for the citizens and a liability for our city? Do you know any city that's in a legal suit right now or any history of any legal suits with this? Chief Webster said that he did not. Councilwoman Whitehurst noted that the state had already given permission to let them ride on low speed vehicles, so we needed to stay within the protections. Councilman Biggs said the low speed vehicles meant we were sending someone to the DMV and adding an additional step. He did think they needed to require that golf carts had seatbelts and headlights and everything else. He also felt they needed an annual inspection, which is what Edenton did. We could set a dollar amount and have a decal like the registration tag on the windshield. He said he did not feel this was something that would get out of hand. It would likely be something that a handful of residents who really wanted it would take advantage of and it would be something we could offer to new people who were interested, but everyone is not going to get a golf cart and ride up and down the road.

Councilman Gibbs asked if people were looking to come from Tooley's Harbor to the downtown area, where were they going to park? Chief Webster noted that if we enacted an ordinance, we'd want to think about parking and bollards as well. There's a variety of safety and warning equipment that would have to be put in place.

Councilman Walton stated that Elizabeth City is built differently than Edenton. We have a lot of young kids who make bad decisions and crime is occupying a lot of the time of our Police Department. Whatever the ordinance says is what we would have to go by. He felt that 16-25 years of age is an iffy place and there's a lot of things going on. Our Police Department is down on officers and having them stuck writing tickets for golf carts when other things are happening would be difficult to explain. I think maybe a golf cart could be used for special events like the Potato Festival, but I think they would be not the safest thing to do in Elizabeth City.

Chief Webster noted they could regulate the age of operators for golf carts, but it's normally 16, although he did see a few that specified requirements for 18-year-old operators. Mayor Pro Tem Spence asked if these people get golf carts and we put the same standards required for low speed vehicles, why would they bother with doing those upgrades instead of just buying a low speed vehicle in the first place? We're putting liabilities on the City and going against what the Police Department is saying. If the Council goes against what the Police Department is saying about golf carts, it wouldn't be in our best interest because they're the experts. I'm fine with the low speed vehicles. If they want a low speed vehicle, let them get a low speed vehicle because the state already mandated that. Attorney Morgan just said more than likely they might find a loophole for a lawsuit if a kid gets hit on the cart. What does the committee say?

Motion was made by Councilwoman Katherine Felton to take no action. The motion was seconded by Mayor Pro Tem Kem Spence. Those voting in favor of the motion were: Spence and Felton. Against: None. Motion carried unanimously by committee vote.

Mayor Rivers stated that the remainder of the Work Session items would need to be moved forward to the Regular Session as it was approaching the 7:00 p.m. hour.

3. Adjournment:

There being no further business to be discussed, Mayor Rivers adjourned the meeting at 6:54 p.m.

E. Kirk Rivers
Mayor

April D. Onley
City Clerk, NCCMC